- 1 TRUMP v. MONTGOMERY COUNTY BOARD OF ELECTIONS
- 2 argued that the new election code has eliminated,
- 3 either restricted and/or eliminated, the right of third
- 4 parties to challenge any deficiencies such as you're
- 5 doing right now. You didn't file a reply brief. They
- 6 only filed their materials yesterday. What is your
- 7 reply to that? You touched upon it.
- MR. GOLDSTEIN: Yeah. So our reply is
- 9 that they misperceived what is going on. These
- 10 challenge procedures are still in the statute. They're
- 11 still viable and vital. And the place where they say a
- 12 challenge could be made is a place where a challenge
- 13 cannot be made. The Friday before the election, those
- 14 ballots are still locked in a sealed container, so I
- 15 can't examine them. I can't challenge them. And what
- 16 they propose as a scheme for challenging defies the
- 17 plain language of the statute, defies the procedures
- 18 that are in use everywhere in the state. We have to be
- 19 able to challenge them in this way or it yields the
- 20 certain results I've indicated.
- 21 If the Board had allowed somebody to
- vote and they couldn't vote and we all knew it, under
- their scheme, we would just have to allow it because
- this person applied for something some manner of weeks
- 25 ago.

- 1 TRUMP v. MONTGOMERY COUNTY BOARD OF ELECTIONS
- THE COURT: In your petition, which is
- 3 right before me -- and I read it several times -- you
- 4 don't claim that any electors or the Board of the
- 5 County were guilty of fraud, correct? That's correct?
- 6 MR. GOLDSTEIN: Your Honor, accusing
- 7 people of fraud is a pretty big step. And it is rare
- 8 that I call somebody a liar, and I am not calling the
- 9 Board of the DNC or anybody else involved in this a
- 10 liar. Everybody is coming to this with good faith.
- 11 The DNC is coming with good faith. We're all just
- 12 trying to get an election done. We think these were a
- 13 mistake, but we think they are a fatal mistake, and
- 14 these ballots ought not be counted.
- 15 THE COURT: I understand. I am asking
- 16 you a specific question, and I am looking for a
- 17 specific answer. Are you claiming that there is any
- fraud in connection with these 592 disputed ballots?
- MR. GOLDSTEIN: To my knowledge at
- 20 present, no.
- 21 THE COURT: Are you claiming that there
- is any undue or improper influence upon the elector
- with respect to these 592 ballots?
- MR. GOLDSTEIN: To my knowledge at
- 25 present, no.

- 1 TRUMP v. MONTGOMERY COUNTY BOARD OF ELECTIONS
- THE COURT: Does it make a difference
- 3 whether a claim of irregularity or technical
- 4 noncompliance with the election code is made with or
- 5 without an accompanying claim of fraud or improper
- 6 influence?
- 7 MR. GOLDSTEIN: It does not. I mean, to
- 8 claim the technical defects are immaterial, which is in
- 9 some sense some of the thrust of what the DNC arqued,
- 10 is really to misperceive what is going on in the
- 11 election code. The election code is technical.
- These requirements are all technical.
- 13 And some of them sit in that code for reasons that are
- 14 a mystery for all of us. I mean, I sort of recounted
- for you my view of why the elector signing in his own
- 16 hand is material. The DNC have their reasons for why
- 17 they think it is material or immaterial. The fact of
- 18 the matter is, it is in the code. The code is itself
- 19 technical. Those technicalities are part and parcel of
- 20 the law and a violation of the results in a ballot that
- 21 can't be counted.
- THE COURT: All right. I don't have any
- 23 questions for you.
- I have a question for generally whoever
- 25 prepared the stipulation. So I will ask it of you and